

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3796 of 1988

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

AKHIL KATCH AECHAT WORK CHARGEKARMACHARI MANDAL

Versus

EXECUTIVE ENGINEER

Appearance:

MR NA PANDYA for MR NITIN M AMIN for Petitioner
MR JM BAROT for MR HS MUNSHAW for Respondent No. 1
M/S PURNANAND & CO for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 01/09/2000

ORAL JUDGEMENT

The petitioner claims to be the Association of workmen appointed on scarcity relief work in Kutch District. The petition is preferred on behalf of 200 workmen, service details of whom are found in the

statement at Annexure-A to the petition. It is the claim of the petitioner that the workmen were appointed on scarcity relief work for three years and their service was likely to be terminated. It is, therefore, prayed that the respondents be restrained from terminating the service of the members of the petitioner-Association. It appears that initially this court on 18th July, 1988, directed the respondents to maintain status-quo, however, the same was vacated on 23rd December, 1988. The President of the Association has, on 30th August, 1988, made an affidavit and has stated that the service of the concerned workmen was terminated by orders dated 18th July, 1988, made by the Taluka Development Officer. Thus, pending this petition, the services of the concerned workmen have been terminated. Neither the orders of termination of service have been placed on the record, nor the said orders have been challenged. The order of appointment given to one Gajendrasinh annexed to the petition suggests that the said order was made by the Taluka Development Officer and the said Gajendrasinh was appointed as Muster Clerk in the scale of Rs.260-400 on temporary basis for scarcity relief work on condition that the service was temporary and terminable without notice and the appointee can leave the service after informing about his intention to leave and on the arrangement of handing over of the charge was made.

The Division Bench of this court in the matter of J.J.SHRIMALI VS DISTRICT DEVELOPMENT OFFICER, MEHSANA (1989 {1} GLR 396) has taken a view that the scarcity relief work is a Sovereign function of the State and can not be said to be an 'Industry' within the meaning of section 2 (j) of the Industrial Disputes Act, 1947. It is further held that the persons appointed on scarcity relief work have no right to employment and their services can be terminated in accordance with the terms of appointment. The said view has been approved by the Full Bench of this Court in the matter of H.K.MAKWANA VS STATE OF GUJARAT & ORS (1994 {2} GLR 1002)

In view of the above settled law, the claim of the petitioner-Association for continuance of the service of its members even after the completion of scarcity relief work or of employment on some other Project is not sustainable.

Petition is, therefore, dismissed. Rule is discharged.

(MS R.M.DOSHIT J)

JOSHI